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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,912	12/18/2001	Giorgio Valentini	BA-22801	8234
178	7590	10/07/2004	EXAMINER	
BUCKNAM AND ARCHER 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			BUECHNER, PATRICK M	
			ART UNIT	PAPER NUMBER

3754

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/018,912

Applicant(s)

VALENTINI ET AL.

Examiner

Patrick M Buechner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-6 and 8-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 4-6 and 8-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunyan (US 4,305,483) in view of Guimond et al. (US 4,122,978).

Bunyan discloses an antiseptic/biocide composition that is composed of either calcium or sodium hypochlorite (column 5, lines 47-53) and can be dispensed in aerosol form (column 5, line 1).

Bunyan does not disclose the specifics of how one would dispense the composition in aerosol form, so one of ordinary skill in the art at the time the invention was made would have looked for teachings in the prior art.

Guimond teaches dispensing a composition as a mixture with the propellant carbon dioxide, the product in liquid form and the carbon dioxide in gas/vapor form. Guimond also teaches the requisite dispensing and metering structure (24) which can be used to dispense a single dose, multiple doses or a continuous dose (dependant upon how long the actuator 24 is held in the open position).

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Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the device of Guimond in order to dispense the composition of Bunyan since Bunyan discloses dispensing the composition in aerosol form, but is silent as to the specifics.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bunyan in view of Guimond as applied to claim 11 above, and further in view of Burger (US 4,431,120).

Bunyan in view of Guimond disclose all the elements of claim 4 with the exception of adding anhydrous salts to the container.

Burger teaches an aerosol device having water-encapsulating silica, and the examiner takes Official Notice that silica and anhydrous salts are well known equivalents.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to add anhydrous salts to the container of Bunyan/Guimond in order to prevent corrosion of the container.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bunyan/Guimond as applied to claim 11 above, and further in view of Watson (GB 1,412,282).

Bunyan/Guimond discloses all the elements of claim 10 with the exception of the biocide in paste gel or solid form.

Watson teaches dispensing a hypochlorite biocide from the form of a solid, liquid or powder (page 2, lines 2-29).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use the biocide from taught by Watson in the container of

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Bunyan/Guimond, since Watson teaches that all of these forms are equivalent, and a solid form would reduce corrosion of the container.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chang et al. (US 5,948,742) discloses that hypochlorite biocides in aerosol form are well known.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick M Buechner whose telephone number is (703) 308-2602. The examiner can normally be reached on 6:30am-5:00pm M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*PS*

PB



MICHAEL MAR  
SUPERVISORY PATENT EXAMINER  
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